

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-342-RJC
(3:07-cr-144-RJC-2)**

NILES M. BELK,)
)
Petitioner,)
)
vs.) **ORDER**
)
UNITED STATES OF AMERICA,)
)
Respondent.)
_____)

THIS MATTER is before the Court on Petitioner's Unopposed Motion for Abeyance.
(Doc. No. 18).

Petitioner filed a Motion to Vacate pursuant to 28 U.S.C. § 2255 seeking relief pursuant to United States v. Johnson, 135 S.Ct. 2551 (2015). This matter stayed pursuant to Beckles v. United States, No. 15-8544, then United States v. Simms, No. 15-4640. See (Doc. Nos. 4, 9). Petitioner filed a Supplemental Memorandum in September 2019 based on United States v. Davis, 139 S.Ct. 2319 (2019) and United States v. Simms, 914 F.3d 229 (4th Cir. 2019) (*en banc*), (Doc. No. 12), and the Government filed a Motion to Dismiss the § 2255 petition in November 2019, (Doc. No. 15).

Petitioner has now filed a Motion asking the Court to place the instant case under abeyance pursuant to United States v. Ali, No. 15-4433 and United States v. Steward, No. 15-4422. (Doc. No. 10). Petitioner argues that the issues in Ali and Steward will be highly relevant to, if not dispositive of, Belk's § 2255 petition. Petitioner notes that the issues he has raised are nearly identical to those presented by his co-defendant, Andre Corbett, in case number 3:16-cv-330, and

that Mr. Corbett's case was placed in abeyance at the Government's request pursuant to Ali and Steward. The Government consents to the Motion seeking a stay. See (Doc. No. 18 at 2).

The Court agrees with Petitioner that the issues involved in Steward may have a bearing on the disposition of the issues in Petitioner's case. This case will therefore continue to be stayed pursuant to Ali and Steward and the Government will be ordered to respond to Petitioner's § 2255 Motion to Vacate within **30 days** after the mandate in Ali or Steward is issued, whichever occurs first.

IT IS, THEREFORE ORDERED that:

1. Petitioner's Unopposed Motion for Abeyance, (Doc. No. 18), is **GRANTED**.
2. This case will remain stayed pursuant to Ali and Steward and the Government shall have 30 days after the Fourth Circuit issues its mandate in Ali or Steward, whichever occurs first, to respond to Petitioner's § 2255 Motion to Vacate.

Signed: December 30, 2019



Robert J. Conrad, Jr.
United States District Judge
